



**UNITED STATES DEPARTMENT OF COMMERCE**  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/248,057	02/10/99	BUI	T 62492

022242 QM32/1011  
FITCH EVEN TABIN AND FLANNERY  
120 SOUTH LA SALLE STREET  
SUITE 1600  
CHICAGO IL 60603-3406

EXAMINER

THISSELL, J

ART UNIT	PAPER NUMBER
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3763

DATE MAILED:

10/11/00

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trad marks**

# Office Action Summary

Application No.

09/248,057

Applicant(s)

Bul et al.

Examiner

Jeremy Thissell

Group Art Unit

3763



☒ Responsive to communication(s) filed on Jul 26, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1, 3, 8-13, 18-21, 24, and 26-37 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1, 3, 8-13, 18-21, 24, and 26-37 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 8-13, 18-21, 24, and 26-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lynch et al. (US Pat No. 5,885,245).

Lynch teaches the device substantially as claimed except for selectively displaying the keys according to the status of the device.

The examiner takes the position that since the device of Lynch is a computerized processing and display unit, possibly having a touch screen display, that it would have been obvious to use a well-known system of inactive keys shown in "shadow". The examiner takes the position that this system is (and has been) universally known in computer systems, and has included captured windows from his own computer showing the "Disabled" selection in "shadow", and the "About Windows NT 4.0" window that indicates that it was published in 1996.

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***Response to Arguments***

3. Applicant's arguments filed 26 July 2000 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves **or in the knowledge generally available to one of ordinary skill in the art.** *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, one of ordinary skill in the art of computer screen displays or even in using personal computers would recognize that greyed out "disabled" keys would be an obvious modification to Lynch. On a computer screen (like the ones captured and pasted in this office action) the virtual a key is greyed out for example when the current status of the program does not allow the function for which that key is designated. The key is disabled to reduce the choices a user has from a menu in order to simplify their use of the program. A specific example would be in an email program, if I click on the "File" drop down menu, the "send" button is greyed out when I do not currently have a new mail composed. The examiner takes the position that one of ordinary skill in the art would have found it obvious to use this feature on the device of Lynch for the same reason (to simplify operation for the user).

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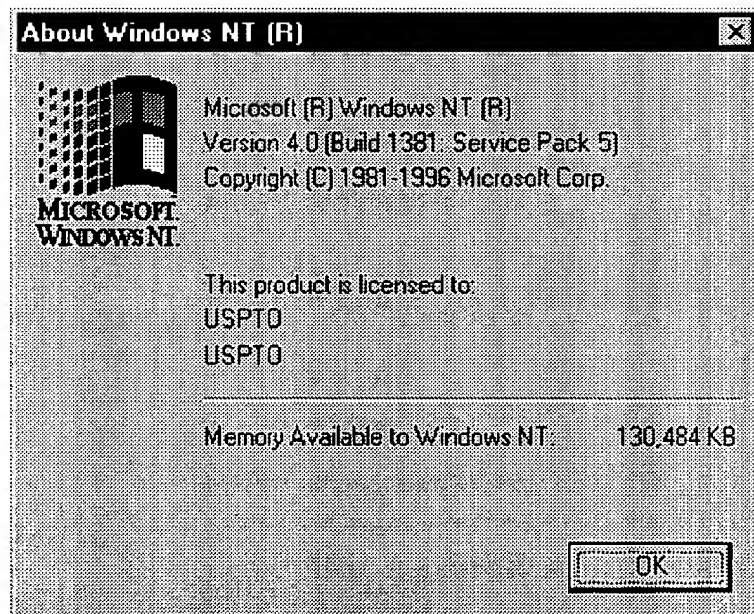
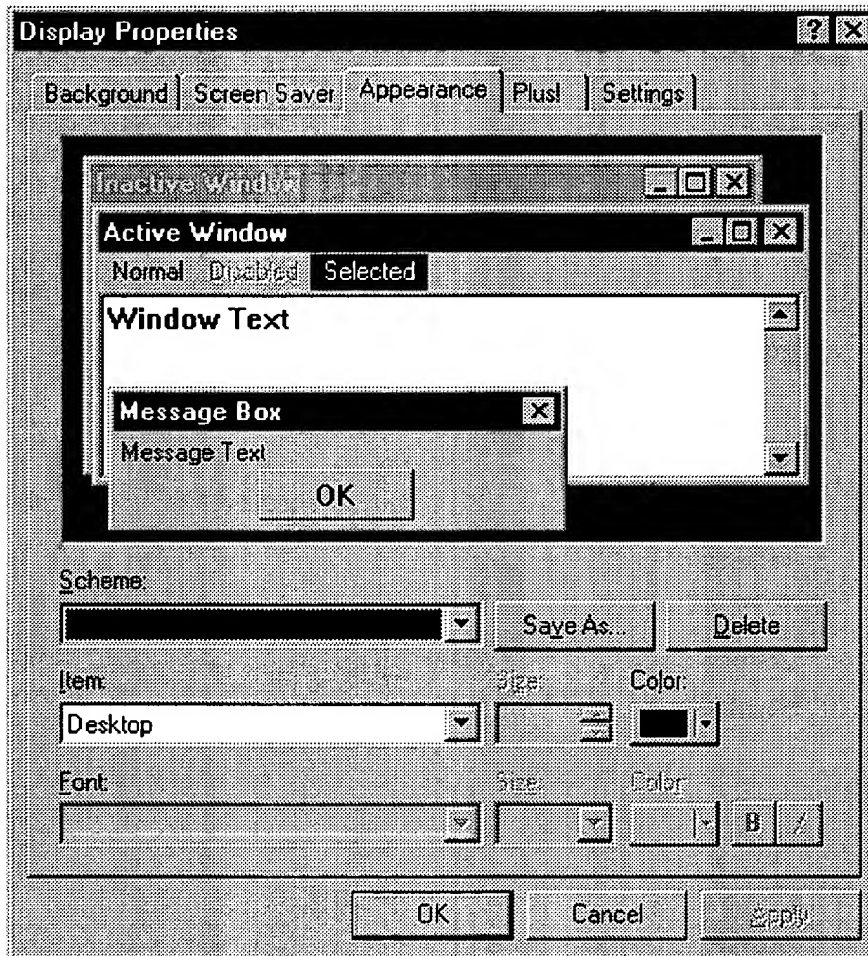
Applicant argued that Lynch teaches away from this combination because, according to applicant, Lynch teaches “a visual display that is either identical or substantially identical to the medical device’s input device.” However, the passage from Lynch that was quoted by Applicant merely specified that “the virtual key pad shown in Fig. 11A is the same as the actual keypad 90 of the pump”. The point is that the keypad shows the same keys in the same “spatial configuration” (also in the quoted passage from Lynch). A keypad with greyed out keys would still have the same keys in the same “spatial configuration”, and thus would not conflict with the teachings of Lynch.

### *Conclusion*

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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*Contacts*


Any inquiry concerning this communication should be directed to Jeremy Thissell at (703) 305-5261, or to Supervisory Patent Examiner Richard Seidel (703) 308-5115.

Jeremy Thissell

Patent Examiner

JT

October 5, 2000



Richard Seidel  
Sik 3763